

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALVIN FLORIDA, JR.;  
ROBERT ALHASASH RASHEED;  
JOHN LEE BERRY, III; and  
REFUGIO DIAZ,

Defendants.

Case No. 14-cr-00582-PJH-1

**ORDER RULING ON DISPUTED  
INSTRUCTIONS**

The court held a charging conference after the close of evidence on November 8, 2016. As reflected in the record, the court heard argument and ruled on several disputed jury instructions, and took under submission the government's request to include an instruction about a single conspiracy in the instruction on the elements of conspiracy pursuant to *United States v. Tille*, 729 F.2d 615, 621 (9th Cir. 1984), in light of the court's ruling granting defendants' request to give an instruction on multiple conspiracies. Defendants filed an objection to the government's proposed single conspiracy instruction. Doc. no. 310. Having reviewed the relevant authority, the court overrules the defense objection, grants the government's request and orders that instruction no. 21, doc. no. 295, be amended to add the following sentence at the end of the instruction: "A single conspiracy may involve several subagreements or subgroups of conspirators." *United States v. Bibbero*, 749 F.2d 581, 587 (9th Cir. 1984) (concluding there was sufficient evidence to enable a reasonable jury to find beyond a reasonable doubt that there was a single overall conspiracy) (citing *Tille*).

1 As ordered at the hearing, the court deletes instruction no. 16 and modifies  
2 instruction no. 39 ("Statements by Defendant") to add the following paragraph pursuant to  
3 *Bruton v. United States*, 391 U.S. 123 (1968):

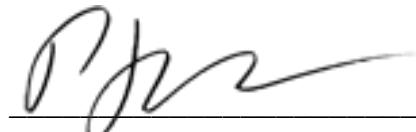
4 You have heard testimony that defendant Robert Rasheed  
5 made one or more statements to FBI Special Agent Timothy  
6 Paulson. This evidence has been admitted only as to  
7 defendant Rasheed and you must consider it only for that  
8 limited purpose and not for any other purpose. You may not  
9 consider the statements made by defendant Rasheed to  
10 Agent Paulson against any other defendants.

11 The court granted leave to file supplemental briefing on defendants' request to  
12 give an instruction pursuant to *Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752  
13 (1984), with defendants' brief due by 9:00 a.m. and the government's opposition due by  
14 12:00 noon, November 9, 2016. The court will issue an order after review of the briefs.

15 The government shall submit a blind set of all approved instructions by 4:00 pm,  
16 November 9, 2016.

17 **IT IS SO ORDERED.**

18 Dated: November 9, 2016



PHYLLIS J. HAMILTON  
United States District Judge